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U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ERIC TODD OWENS,

Plaintiff,

-against-

CHECKR INC.,

Defendant.

-----X
JOAN M. AZRACK, District Judge:

ORDER
19-CV-5333 (JMA) (AKT)

On September 18, 2019, pro se plaintiff Eric Todd Owens (“Plaintiff”) filed a complaint against Checkr Inc., together with an application to proceed in forma pauperis. On December 16, 2019, Plaintiff filed another application to proceed in forma pauperis together with a motion to file an amended complaint.¹ For the reasons that follow, Plaintiff’s applications to proceed in forma pauperis are denied without prejudice and with leave to renew upon completion of the AO 239 in forma pauperis application form. Alternatively, Plaintiff may remit the \$400.00 filing fee.

On his original in forma pauperis application, Plaintiff checked the box on the form to indicate that he is not employed and reported that he has not received any money from any source within the last twelve (12) months. (See ECF No. 2 ¶¶ 2–3.) However, on the December 16, 2019 application, Plaintiff indicates that he is now employed, his bi-weekly gross pay is \$315.00, and that his bi-weekly SNAP benefits have been “cut due to recent employment” to \$68.50. (See ECF No. 9 ¶¶ 2–3.) Plaintiff avers on both applications that he has no money in cash or in a checking or savings account and he reports no regular monthly expenses, including housing,

¹ The Court notes that by Order dated December 31, 2019, (ECF No. 10), Magistrate Judge Tomlinson apprised Plaintiff that, given the procedural posture of this case, he may file an amended complaint as of right and is not required, at this juncture, to seek leave of the Court to do so. She directed Plaintiff to file his Amended Complaint, including a proper caption, within fourteen (14) days from the date of the Electronic Order. This current Order denying Plaintiff’s applications to proceed in forma pauperis with leave to renew does not affect his ability to file his Amended Complaint in accordance with Judge Tomlinson’s December 31, 2019 Order.

transportation, utilities, or otherwise. (See ECF No. 2; ECF No. 9 ¶¶ 4–6.) In response to the question on the form that calls for the description of “[a]ny debts or financial obligations (describe the amounts owed and to whom they are payable)”, Plaintiff wrote only “rent, food” on the original application, (ECF No. 2 ¶ 2), and “DMV-\$1000.00” on the second application (ECF No. 9 ¶ 8.)

Thus, because the responses provided by Plaintiff on the two in forma pauperis applications are inconsistent, at best, and do not permit the Court to conclude that Plaintiff is qualified to proceed in forma pauperis, Plaintiff’s applications are denied without prejudice to a renewal thereof upon completion of the long form in forma pauperis application (AO 239) annexed to this Order. Under the circumstances, Plaintiff can best set forth his current financial position on the AO 239 form. Plaintiff is directed to either remit the \$400.00 filing fee or complete and return the enclosed long form in forma pauperis application within fourteen (14) days from the date of this Order. Plaintiff is cautioned that a failure to timely comply with this Order will lead to the dismissal of the complaint without prejudice and judgment will enter.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

The Clerk of Court shall mail a copy of this Order and the AO 239 in forma pauperis application form to Plaintiff at his last known address.

SO ORDERED.

Dated: January 10, 2020
Central Islip, New York

/s/ (JMA)
Joan M. Azrack
United States District Judge